



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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A0-94-04

MARY F. McTIGUE
DIRECTOR

Representative Patrick Guerriero
1 Maple Road
Melrose, MA 02176

Re: Political Fundraising in Public Buildings

Dear Representative Guerriero:

This letter is in response to your recent request for an advisory opinion.

You have asked whether the campaign finance law, specifically, M.G.L. c. 55, s. 14, would permit the Committee's use of the Melrose Memorial Hall for a political fundraising event.

This office has learned through conversations with the Director of the Memorial Building Department that the Hall is apparently held in trust according to the terms of the City Charter, and is used for rental purposes only. The Hall contains no municipal offices and is vacant except when rented out for various functions, ranging from rehearsals of the Melrose Symphony Orchestra to mayoral inaugurations. The Hall contains a main auditorium on the first floor and a smaller meeting area on the second floor. The Hall also contains an empty office, marked "private." The office contains a desk, phone and empty filing cabinet.

The building is a soldier's and sailor's memorial building built in 1912. It was originally intended to serve as a meeting place for veterans. The board of trustees is appointed by the mayor. The executive director of the Memorial Building Department is paid by the city and reports to the board of trustees. Income generated from rentals is provided to the city; the city, in turn, provides a budget for the Memorial Building Department.

Section 14 of M.G.L. c. 55 states, in pertinent part:
"[n]o person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen¹." (Emphasis added).

1. Section 13 prohibits political solicitation by persons employed by the commonwealth and its subdivisions "for political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever."

Section 14 is one of a series of restrictions in chapter 55 which "demonstrate a general legislative intent to keep political fund raising and disbursing out of the hands of nonelective public employees and out of city and town halls." Anderson v. City of Boston, 376 Mass. 178, 186-187 (1978). The underlying purpose of chapter 55 is the assurance of "fairness of elections and the appearance of fairness in the electoral process." Id., at 193. The statute seeks to accomplish this goal by strictly excluding the commonwealth and its political subdivisions from involvement in the political process.


In AO-89-07 this office advised that space rented to political committees at the John B. Hynes Veterans Memorial Convention Center was not "occupied for state, county or municipal purposes." The Convention Center Authority, which owned and operated the Center, made the facilities of the Center available for all users in a nondiscriminatory manner. The Authority was a public authority created by statute which served a public function. However, in reviewing the function of the Center, I determined that "the purpose of the convention facilities seem[ed] to be primarily to accommodate gatherings of private parties." Significantly, no state, county or municipal offices were located in the portion of the Center which contained the convention facilities.

The Melrose Memorial Hall, like the Hynes Convention Center, is not "occupied for state, county or municipal purposes." It contains no offices or agencies of government. The Melrose Memorial Hall, like the Center, is used primarily to accommodate gatherings of private parties.²

It is the opinion of this office, therefore, that the Memorial Hall may be used for political fundraising purposes without violating the provisions of M.G.L. c. 55, s. 14.

Please do not hesitate to contact this office should you have additional questions.

Very truly yours,


Mary F. McTigue
Director

MFM/cp
cc: Mayor Richard D. Lyons
Ms. Millie Rich

2. Although neither the Melrose Memorial Hall nor the Hynes Convention Center are occupied for municipal purposes, it is worthy of note that the Hall apparently was built with private, not public, funds. In contrast, the Convention Center was built with public funds.